

REMARKS

In response to the Restriction Requirement, Applicants hereby provisionally elect, with traverse, the invention of Group I, claims 24-37, this group being drawn to an oxygen conducting membrane, product.

The grounds for traversal are as follows.

The instant application is a 371 National stage application of PCT/FR2004/002163, and thus, PCT rules should apply under these circumstances.

As such, PCT Rule § 13.1 states, "The international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention")". PCT Rule § 13.2 provides that "Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule § 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art". Thus, the requirement is art-based.

However, the Office has failed to cite a prior art reference to show absence of a common technical feature among Groups I-V. Applicants respectfully submit that the present

claimed invention is a contribution over the prior art and that unity of invention for Groups I-V should be recognized. As a result, it is clear that the Office Action has failed to satisfy the requirements of PCT Rule § 13.1 and PCT Rule § 13.2, and thus, the requirement should be withdrawn.

Nonetheless, the Office argues that the claims lack unity of invention, because they lack the same or corresponding special technical feature on the basis that there is no common subject matter between the groups. Applicants respectfully disagree.

Groups I-V are linked by the oxygen-conducting membrane as a special technical feature. Group I is directed to the oxygen-conducting membrane (product) itself. Group II is directed to a method of preparing it. Group III is directed to a membrane reactor incorporating the claimed oxygen-conducting membrane. Group IV is directed to a method for oxidizing reactant gas using the claimed oxygen-conducting membranes. Group V is directed to a method for recovering oxygen from the gaseous mixture, also using the claimed oxygen-conducting membrane.

Hence, the five groups are linked by a single general inventive concept and thus comply with the unity requirement.

Further, in view of the related subject matter as discussed above, it would not constitute an undue burden to search the full scope of the claims. Thus, Applicants believe that all of the claims are sufficiently related so as to warrant

a search and examination of all the claims in their full scope.
Such action is respectfully requested at this time.

In the event that the Office disagrees with the traversal and maintains the Restriction requirement, then kindly consider the possibility of rejoinder of the non-elected subject matter, upon a determination of allowance of the election invention, per U.S. practice and M.P.E.P. § 821.04.

Favorable action on the merits is solicited.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/Jay F. Williams/
Jay F. Williams, Reg. No.48,036
209 Madison Street, Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

JFW/jad